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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

APR 04 2000

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

GABRIEL ALVAREZ, VIRGINIA
ALVAREZ, MARIA CHAVEZ,
RANULFO GUTIERREZ, PEDRO
HERNANDEZ, MARIA MARTINEZ,
RAMON MORENO, and ISMAEL
RODRIQUEZ, individually and as class
representatives,

Plaintiffs,

v.

IBP, INC., a Delaware corporation,

Defendant.

CLASS ACTION
No. CT-98-5005-RHW

**LR 56.1 STATEMENT OF
MATERIAL FACTS IN SUPPORT
OF MOTION FOR SUMMARY
JUDGMENT DISMISSING
PLAINTIFFS' STATE LAW
OVERTIME CLAIMS**

In support of Defendant's Motion Summary Judgment Dismissing Plaintiffs' State Law Overtime Claims, defendant IBP, inc. ("IBP") submits the following statement of material facts:

LR 56.1 STATEMENT OF MATERIAL FACTS - 1

ORIGINAL

1 1. The name IBP itself historically has been an acronym for Iowa Beef
2 Packing and/or Iowa Beef Processors. See Declaration of James V. Lochner in
3 Support of Motion for Summary Judgment Dismissing Plaintiffs' State Law Overtime
4 Claims ("Lochner Dec.") at ¶ 5.

6 2. IBP began its operations in 1961 in Denison, Iowa as Iowa Beef Packing,
7 Inc., with its name reflective of its operations. See Lochner Dec. at ¶ 5. Later, the
8 corporate name was changed to Iowa Beef Processors, Inc., a name that is also
9 reflective of the type of operations conducted at IBP's fresh meat facilities. See
10 Lochner Dec. at ¶ 5.

13 3. IBP's fresh meat facilities, including the Pasco, Washington facility, are
14 registered to do business in the states where they are located using Standard Industry
15 Code (SIC) 2011. This SIC number is specifically reserved for and utilized by
16 operations engaged in "meat packing." See Lochner Dec. at ¶ 4.

18 4. At the Pasco plant, the cattle are processed and packed for transportation
19 to the ultimate point of sale or final consumption. See Lochner Dec. at ¶ 24. The
20 Pasco plant has several divisions and departments within those divisions that play
21 important roles in the processing and packaging of the cattle. See Lochner Dec.
22 Cattle and Boxed Beef are traded as commodities in the national futures market. See
23 Lochner Dec. at ¶ 24.

26 LR 56.1 STATEMENT OF MATERIAL FACTS – 2

1 5. The class definition includes “all IBP processing and slaughtering
2 employees....” See Court’s Order Granting Motion to Amend and Class Certification
3 dated August 24, 1999, at p. 5.
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5 6. The Slaughter division employees work in that area of the plant where
6 the live cattle are killed and the initial processing of the carcasses takes place. See
7 Lochner Dec. at ¶ 13. Once killed, the animal’s carcass is hung from a chain. The
8 chain carries the carcass to various stations on the processing line where the carcass is
9 disassembled and stripped of most inedible elements such as the hide. See Lochner
10 Dec. at ¶ 13.
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12 7. Most of the processes performed on the carcass in the Slaughter division
13 result in materials being saved for sale directly to customers for immediate use or for
14 further processing. See Lochner Dec. at ¶ 13 - 14. While the primary function of the
15 Slaughter division is processing of the animal into half carcasses that will be further
16 processed in the Processing division of the plant, broad categories of products are
17 produced for direct sale to customers for immediate use or for further processing,
18 including: carcass sales direct to customers; variety meats; rendered products; refined
19 products; and hides. See Lochner Dec. at ¶ 14.
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LR 56.1 STATEMENT OF MATERIAL FACTS – 3

1 8. Direct sales from the Slaughter division account for approximately 6% of
2 the total for the Pasco complex, or more than \$48 million in 1999. See Lochner Dec.
3 at ¶ 15.

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5 9. After the carcass has been processed in the Slaughter division, it is placed
6 in a large, refrigerated holding cooler for at least 24 hours, but typically not longer
7 than 48 hours. See Lochner Dec. at ¶ 21. A carcass left in refrigeration over longer
8 periods of time will begin to “shrink” and remains a perishable product, susceptible to
9 decomposition and becoming of no value. See Lochner Dec. at ¶ 21.

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12 10. The carcass is then forwarded to a separate division of the plant where
13 Processing employees continue processing the animal. See Lochner Dec. at ¶ 21.

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15 11. The employees in the Processing division of the Pasco plant are
16 responsible for disassembling the carcass into manageable cuts of meat, which are
17 further reduced to “primal” and “sub-primal” parts. See Lochner Dec. at ¶ 22.

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19 12. Primals and sub-primals are cuts of meat that are of manageable size that
20 can be conveniently cut by the final retailers or consumers in a manner consistent with
21 the then-current demand. See Lochner Dec. at ¶ 22. For instance, Safeway may
22 determine that larger New York cuts of meat are selling better on a particular day than
23 flank steak. The primal and sub-primal cuts give the final retailer or consumer
24 additional flexibility in the ultimate cuts of meat. See Lochner Dec. at ¶ 22.

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26 LR 56.1 STATEMENT OF MATERIAL FACTS – 4

1 13. In some cases, IBP processing employees grind portions of the product,
2 with the ground beef product then packaged for delivery to customers for their further
3 processing or for retail customer consumption. See Lochner Dec. at ¶ 25. Some
4 product shipped requires no further processing at the retail level, therefore being
5 described as “retail ready.” See Lochner Dec. at ¶ 25.
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8 14. Once the beef is processed through the Slaughter and Processing
9 divisions, it is bagged, vacuum packaged, boxed and loaded into waiting trucks from
10 IBP customers such as Fred Meyer and Safeway. In most cases, these customers
11 transport their own product to the final point of sale. See Lochner Dec. at ¶ 24.
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13 15. **Gabriel Alvarez.** Mr. Alvarez describes himself as having once worked
14 in the Slaughter division and being transferred to “processing,” stating he now works
15 “cutting neck on a processing line.” See Declaration of Gabriel Alvarez in support of
16 Motion for Class Certification, February 9, 1999, at ¶¶ 2 – 3, a courtesy copy of which
17 is attached as Exhibit 1 to the Declaration of Barbara J. Duffy in Support of Motion
18 for Summary Judgment Dismissing Plaintiffs’ State Law Overtime Claims (“Duffy
19 Dec.”).
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22 16. Mr. Alvarez works on the chuck line as a “lead person” where he
23 performs a variety of functions on the chuck line. See Declaration of Mark Hester in
24 Support of Motion for Summary Judgment Dismissing Plaintiffs’ State Law Overtime
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LR 56.1 STATEMENT OF MATERIAL FACTS – 5

1 Claims ("Hester Dec.") at ¶ 10. All of the jobs he performs were necessarily related
2 to reducing the chuck portion of the livestock to a manageable cut for ultimate
3 delivery and consumption. See Hester Dec. at ¶ 10. His tasks mostly include
4 trimming and deboning the chuck. Id.

6 17. **Virginia Alvarez.** In her own words, Ms. Alvarez describes her work
7 prior to her resignation from IBP as "processing in the ground beef department." See
8 Declaration of Virginia Alvarez submitted in support of Motion for Class
9 Certification, ("Declaration of Virginia Alvarez"), at ¶ 2, a courtesy copy of which is
10 attached as Exhibit 2 to Duffy Dec. Ms. Alvarez describes the work in the ground
11 beef department as including:
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14 about five people on the ground beef line who use knives to cut the meat,
15 to cut the bone loose, and to cut the fat loose ... once the meat, fat and
16 bone are cut, about five employees separate the meat fat and bone. The
17 meat is eventually directed down a particular belt to be further inspected
18 and eventually ground. Once the meat is ground, it is packaged, and
19 about eight people in the ground beef department package, bag and box
20 the ground beef.

21 See Declaration of Virginia Alvarez at ¶ 2.

22 18. Ms. Alvarez's job was to inspect the beef on the ground beef belt to
23 ensure the mix of lean to fat was consistent with the desired specifications. See Hester
24 Dec. at ¶ 11. Some product shipped requires no further processing at the retail level,
25 therefore being described as "retail ready." See Lochner Dec. at ¶ 25.

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1 19. **Maria Chavez.** Ms. Chavez works in the IBP “packaging” department.
2 Indeed, Ms. Chavez herself describes her work as “bagging meat.” See Declaration of
3 Maria Chavez, June 20, 1999, (“Declaration of Maria Chavez”), at ¶ 2, a courtesy
4 copy of which is attached as Exhibit 3 to Duffy Dec. In particular, Ms. Chavez works
5 at the end of a particular processing line where she places the final cut of meat into a
6 bag. See Hester Dec. at ¶ 5. After the meat is bagged, it is vacuum packaged, boxed
7 and eventually loaded onto trucks and delivered to ultimate consumers or retailer
8 sellers. See Hester Dec. at ¶ 5; see also Declaration of Maria Chavez at ¶ 24.

9 20. **Ranulfo Gutierrez.** Mr. Gutierrez describes his work with IBP as “work
10 on a processing floor chuck line, cutting shanks.” See Declaration of Ranulfo
11 Gutierrez in support of Motion for Class Certification, February 4, 1999, at ¶ 3, a
12 courtesy copy of which is attached as Exhibit 4 to Duffy Dec.

13 21. Mr. Gutierrez is responsible for trimming fat and bone from the chuck
14 and reducing it to more manageable cuts of meat that are appropriate for final
15 consumption. See Hester Dec. at ¶ 9; see also, excerpts from the deposition of
16 Ranulfo Gutierrez, at p. 23, l. 14 – p. 25, l. 4, attached as Exhibit 5 to Duffy Dec.

17 22. **Pedro Hernandez.** Mr. Hernandez describes his work as “in processing”
18 where he has a “knife job on one of the rib lines on the processing floor.” See
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1 Declaration of Pedro Hernandez to support Motion for Class Certification, February 5,
2 1999, at ¶¶ 1 – 2, a courtesy copy of which is attached as Exhibit 6 to Duffy Dec.

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4 23. Mr. Hernandez is a “plate boner” who works on the plate section (belly)
5 of the livestock, removing bone from that area and trimming fat from the meat. See
6 Hester Dec. at ¶ 7. This is part of the “disassembly” process of preparing the meat for
7 the final marketplace. See Hester Dec. at ¶ 7.
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9 24. **Maria Martinez.** Ms. Martinez, in her declaration, describes the nature
10 of the work performed in different areas of the plant, and most particularly, the
11 processing lines where she works. See Declaration of Maria Martinez submitted in
12 support of Motion for Class Certification, February 10, 1999, (“Martinez
13 Declaration”), a courtesy copy of which is attached as Exhibit 7 to Duffy Dec.
14 Ms. Martinez states there are approximately “1,000 non-supervisory employees in the
15 processing and slaughter divisions at the IBP Pasco plant.” See Martinez Declaration
16 at ¶ 3. She also states that “the vast majority of them do production work on the kill
17 floor, in the cooler or the processing floor.” See Martinez Declaration at ¶ 3.
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19 Ms. Martinez describes the non-management processing employees as follows:
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- 22 • Cooler employees who cut the carcasses on the way to the processing floor;
- 23 • Employees who cut large pieces of beef from the chain and drop them to one
24 of eight processing lines on the production floor;
- 25 • Production Lines: There are eight production lines including a chuck line,
26 and arm line, rib lines, loin lines and round lines, each line having roughly

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1 30-40 employees who use knives and other cutting equipment and
2 2-5 baggers at the end;

- 3 • Pack[ag]ing employees including the baggers who put the meat into large
4 bags, sealers who operate sealing machines and the packagers who box the
5 meat;
6 • Ground beef employees who cut and process hamburger meat; and
7 • A bone line where employees use knives and cutting machines to clean meat
8 from bones.

9 See Martinez Dec. at ¶ 7, pp. 2-3.

10 25. Ms. Martinez worked on the chuck line and is responsible for trimming
11 the chuck to appropriate fat-to-lean ratios for final packaging or grinding. See Hester
12 Dec. at ¶ 6. Ms. Martinez trimmed fat off portions of the chuck as part of the process
13 of preparing the cut of meat for final consumption and retail sale. See Hester Dec. at
14 ¶ 6. Earlier this year, Ms. Martinez began a new processing position of “bag strips”
15 further down the processing line. Id.

16 26. **Ramon Moreno.** Mr. Moreno is the only class member who worked in
17 the Slaughter division during the class period (since June 30, 1995). See Hester Dec.
18 at ¶ 4. In his own declaration provided to this Court, Mr. Moreno describes work
19 performed by “employees on the slaughter line” as reducing “the slaughtered cow into
20 sides of beef and by-products, by removing the innards, blood, head, hooves and
21 skin.” See Declaration of Ramon Moreno submitted in support of plaintiffs’ Motion
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1 for Class Certification, February 4, 1999, at ¶ 3, a courtesy copy of which is attached
2 as Exhibit 8 to the Duffy Dec.

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4 27. Mr. Moreno was a “second legger.” As such he would skin the cattle’s
5 hide from one of its legs – an event necessary to prepare and process the livestock for
6 final delivery to the point of sale and consumption. See Hester Dec. at ¶ 4.
7 Mr. Moreno was recently disqualified from his “second legger” position because of a
8 medical condition and has worked in the Slaughter division driving cattle since that
9 date. Id.

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12 28. Slaughter division employees produce a number of products sold directly
13 to customers for immediate use or further processing, including: carcasses; variety
14 meats; rendered products; refined products; and hides. See Lochner Dec. at ¶ 14.

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16 29. **Ismael Rodriguez.** Mr. Rodriguez describes his work as “in the
17 processing division at the Pasco plant” and states that his “jobs have included
18 processing line positions of chuck boner and chuck roller.” See Declaration of Ismael
19 Rodriguez submitted in support of Motion for Class Certification, February 4, 1999, at
20 ¶¶ 2 – 3, a courtesy copy of which is attached as Exhibit 9 to Duffy Dec.

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22 30. Mr. Rodriguez works on the chuck line where he is responsible for
23 various positions that relate to disassembly of the initial “chuck” primal, which is cut
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LR 56.1 STATEMENT OF MATERIAL FACTS – 10

1 into more manageable cuts of meat. See Hester Dec. at ¶ 8; see also Lochner Dec. at
2 ¶ 23 and Exhibit B attached thereto.

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4 31. The above descriptions of work performed or allegedly performed by the
5 named plaintiffs are all components of the packing and processing of the livestock for
6 packaging and transportation to the ultimate consumer or retailer. See Hester Dec.

7
8 DATED this 24th day of March, 2000.

9 LANE POWELL SPEARS LUBERSKY LLP

10
11 By 

12 Douglas E. Smith

13 WSBA No. 17319

14 Barbara J. Duffy

15 WSBA No. 18885

16 Attorneys for Defendant IBP, inc.

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26 LR 56.1 STATEMENT OF MATERIAL FACTS – 11